

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 7
	:	No. 14-13254 (SCC)
199 East 7 th Street LLC,	:	
	:	
Debtor.	:	
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AMENDED BENCH WARRANT

On January 18, 2017, after a hearing conducted pursuant to the Court's Order to Show Cause (A) Scheduling a Hearing to Consider Entry of a Contempt Citation, the Imposition of Sanctions, and the Issuance of a Bench Warrant and (B) Directing David Carlebach, Esq. to Attend Such Hearing [Dkt. No. 147], this Court entered its Decision and Order Granting Chapter 7 Trustee's Request to Direct the United States Marshals to Take David Carlebach into Custody and Hold Him in Their Custody Until Such Time as He Purges His Civil Contempt [Dkt. No. 154] (the "Contempt Decision and Order"). In the Contempt Decision and Order, the Court found that (i) David Carlebach ("Carlebach") knowingly and purposefully violated this Court's orders unambiguously directing him to produce records, bank statements, and certifications of compliance with the Trustee's requests; specifically, his obligations pursuant to the Rule 2004 Order (and the Trustee Subpoena issued pursuant to such order), the October 13 Order, and the December 19 Order (each as defined in the Contempt Decision and Order), (ii) such non-compliance constitutes clear and convincing evidence of civil contempt, and (iii) Carlebach is in civil contempt of the Rule 2004 Order, the October 13 Order, and the December 19 Order. The Contempt Decision and Order provided that if Carlebach does not purge his contempt by January 31, 2017, this Court would issue a warrant for his arrest directing the United States Marshals to

take him into their custody and hold him in their custody until such time as he purges his civil contempt by making a complete Production to the Trustee in full compliance with the Trustee Subpoena and the Rule 2004 Order and by paying all outstanding Monetary Sanctions. On February 2, 2017, in accordance with the Court's mandate in the Contempt Decision and Order that the chapter 7 trustee (the "Trustee") file an affirmation stating whether Carlebach has purged his contempt as required by the Contempt Decision and Order, the Trustee filed an affirmation stating that Carlebach had not purged his contempt [Dkt. No. 166]. On February 2, 2017, this Court issued a bench warrant [Dkt. No. 167] (the "Bench Warrant") and its Order to Show Cause (A) Scheduling a Hearing Regarding this Court's January 18, 2017 Contempt Decision and Order and (B) Directing David Carlebach, Esq. to Show Cause at Such Hearing Why He Should Not be Taken into Custody [Dkt. No. 168] (the "Order to Show Cause"). The Order to Show Cause scheduled a hearing for 1:30 p.m. on February 6, 2017 (the "OSC Hearing") and required Carlebach to attend the OSC Hearing to show cause why he should not be taken into custody by the United States Marshals in accordance with the Bench Warrant. Carlebach failed to attend the OSC Hearing and is now in civil contempt of the Order to Show Cause.

Thus, based on the foregoing, it is hereby

ORDERED that the United States Marshals are instructed to arrest Carlebach (a/k/a Pincus David Carlebach), take him into their custody, and hold him in their custody until such time as he purges his civil contempt; and it is further

ORDERED that, subsequent to such arrest, if Carlebach files or causes to be filed (a) a letter with this Court clearly and unambiguously stating that he is ready, willing, and able to immediately comply with this Court's prior orders (other than with respect to payment of the Monetary Sanctions, the payment of which is currently stayed by the automatic stay now in place

as a result of Carlebach's commencement of a chapter 13 case in the United States Bankruptcy Court for the District of New Jersey (Case No. 17-11560)), along with (b) evidence of his ability to comply, the Court will schedule a further hearing to determine whether Carlebach should be released from the United States Marshals' custody; and it is further

ORDERED that the United States Marshals take all necessary measures to effect service and enforcement of this Warrant in any district of the United States where David Carlebach, male, Social Security Number xxx-xx-7350, residential address 614 Caranetta Drive, Lakewood, New Jersey 08701, and work address 55 Broadway, Suite 1902, New York, New York 10006, may be found; and it is further

ORDERED that the United States Marshals called upon to execute the terms of this Warrant will be permitted to use the degree of force necessary to arrest and detain Carlebach, and will be permitted to enter forcibly into the premises of Carlebach's principal residence, 614 Caranetta Drive, Lakewood, New Jersey 08701, or business, 55 Broadway, Suite 1902, New York, New York 10006, if Carlebach is reasonably believed to be inside and if requested access is withheld; and it is further

ORDERED that the United States Marshals are to effect service and enforcement of this Warrant anytime on or after February 3, 2017, subject in all respects to further order of this Court; and it is further

ORDERED that this Amended Bench Warrant amends and supersedes the Bench
Warrant dated February 2, 2017 [Dkt. No. 167].

SO ORDERED at 3:30 p.m. this 2nd day of March, 2017.

Dated: New York, New York
March 2, 2017

/S/ Shelley C. Chapman
HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE